App. F. IX-4

Previous References.

~~934~~ 40
(Legis

File No. 47-3[redacted]

Serial Nos. 1

manuscript (A)

File no 47-40

Later References
PCL. 52-45-(3-40)
PH 286-6881 02.

PRESERVED

Serial 1

GENERAL AND REVENUE SECRETARIAT

74

Serial Nos.

Part B for 74 1940

SUBJECT

employment by the Mysore Government
of the 9th (7) Battalion of the
A.T.S. (2) in ~~Aud~~ and of the
Commissioned

The complete Mysore Gazette
No. p 1678- Legis 47-39-1 dated 14th February 40
directs the publication of the ordinance
to provide (Amendment) Act, 1940

N. S. 234

Employment by the Myson G of the Kilf Battalion of the A. F. (I) in aiding the Civ Power

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

erial No.

From

The Hon'ble the Resident

Confidential D.O. no. F. 120/1938 S 10th. April 1939 re the employment of the Kilf Battalion of the A. F. (I) in aid of the Civil Power by the Myson Govt and stating that an amendment to the Myson Criminal Procedure Code will not be necessary for the purpose

(1) Subd with a draft D.O. addl to the Secy to the Hon'ble the Resident for approval or otherwise

(2) The previous collection P.P. 105 of 30. 1-5 (Confl. Collection 68 of 30-31) on the subject is in the Confidential Branch.

(3) ursd

(4) C.B. Secn please put the previous reference on this subject

(5) HG 14.4

Issued D.O. no. P. 5509 S 15th April 39 to the Secy to the Hon'ble the Resident

(6) C.B. for kindly putting up the Confl Collection referred to in Para 2 supra

(7) PP 105-30-Sls 1-5 (Confl Coll no 68-30) is put up herewith, as also the marginally noted files, which throw some light on the subject

HG (4) 15/4/39.

pol 145-14-1, 1A, 2-3
PP. 72-20-(1-4)
PP. 111-21-(1-5)
CS. 57-21-(22-16) cc 137
PP. 57-25-1
CS. 159-29-23.
Legs 27-07-(Sls 3-5
A. Collection
Mily. 12-4-16-1 to

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Serial No.

8) This question relates to the employment by the Mysore Government of the Kolar Gold Field Battalion of the A.F.(I) in aid of the Civil Power, and this has been coming up before the Government off and on from the year 1896. It was under consideration till the year 1936 and was then dropped under the orders of the Crown Representative. The Hon'ble the British Resident has again re-opened the question on the ground that under a misapprehension by the District Commander the question was dropped and that the situation in industrial areas in India has materially altered in the last few years. He emphasises that the credit of this Government would be very seriously affected should any disturbance on the Kolar Gold Field result in loss of lives and proper and in such circumstances, subsequent information that the local armed Force on the field could not be used for political reasons would be liable to cause a grave scandal. The Hon'ble the Resident is of opinion that the ordinary Police Force on the Field is not sufficien to meet a contingency where there are about 21,000 male Indian employees and that a situation might arise in which much damage could be done before police and military reinforcements could reach the field and in which the existing police force stationed there would not be able to cope with the emergency. He is therefore of opinion that it should be possible for the Mysore

Government to use the A.F.(I) Battalion in aid of the Civil Power in such circumstances until the arrival of reinforcements from outside. He apprehends that if telephone and telegraph wires were cut by the labourers on strike and if the roads were blocked, a considerable time must elapse before the arrival of reinforcements. He states that measures should be so devised as to enable the Mysor Magistrate on the spot to call in the aid of this Battalion to the extent that troops could be called aid of the Civil Power in British India under the orders of a British Indian Magistrate. He therefore suggests that the Government of Mysore should agree to use the Battalion in times of emergency and that they should make proposals as to how the members of the Battalion could be legally protected to the extent that Mysore State Troops are protected when acting in aid of the Civil Power in the Mysore State. He thinks that without any amendment to the Code of Criminal Procedure this can be done and that the question of prestige should not stand in the way of making use of this force when occasion arises. He desires to discuss this matter with the Dewan at any time convenient to him.

9. In their Order dated 23rd December 1908, Government stated as follows:-

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"it is necessary to point out that the officers should not make use of the employment of volunteers except under special circumstances and expect with the previous sanction of Government. In case of grave emergency, Government must be first moved by the Magistrate concerned to obtain through the Hon'ble the Resident the necessary authorisation to the Officer Commanding the Voluntary Corps to place his men at the disposal of the local magistracy. Under no circumstances is it open to the Magistrate to himself requisition the assistance of volunteer officers and men in a collective capacity".

(This Volunteer Corps is now replaced by the unit of the Auxiliary Force of India), Government also mention therein that though the local Magistrates are not authorised to call in the aid of volunteers in a body, they can legally requisition the services of individual volunteers under the provisions of Section 128 of the Criminal Procedure Code. And in their Proceedings dated 4th February 1915, Government stated that they consider it necessary to lay down distinctly that there should be no hesitation on the part of the Magistrate to secure the assistance of volunteers in suitable emergencies and that local Magistrates should arrange in advance with the Commandant of volunteers concerned to have

specified members of the Corps placed at their disposal.

(10) This question was again raised in September 1920 by the Hon'ble the Resident. He considered that the previous instructions issued in 1908 and 1915 requiring the previous permission of Government to use the Volunteery Corps for quelling civil disorder would not be very effective and suggested whether it would not be possible to formulate a scheme which would permit local magistrates, in case of grave emergencies, to call on the officer Commanding the local Indian Defence Force detachment for his assistance in quelling the disturbance without previous reference to the Durbar. The Residency also said then that it was practically certain that the Indian Defence Force in Kolar would not stand by idly and allow perhaps millions of pounds worth of property and valuable lives to be destroyed by the mob before the Magistrate obtained permission of Government to take the help of this Volunteery Corps. After a consideration of this letter, Government took the following objections to the course suggested by the Residency:-

(a) The maintenance of internal law and order in normal condition, is one of the primary obligations of the State and its own police and military and that the calling in of outside help could not but reflect

(By Mar-time The Volunteer corps has been replaced by the I.D.F.)

Serial No.

on the prestige of the State and the efficiency of it Government;

(b) Under the Police Regulation and the Code of Criminal Procedure, any citizen, including in this category individual members of the I.D.F., can be enrolled as a special constable or called upon for assistance in an emergency, and that the special training received by the members of the Indian Defence Force was always available on the side of law and order;

(c) The use of such units in the State would raise complicated questions of legal jurisdiction over them in respect of their actions;

(d) The acceptance of the proposal would necessitate the amendment alike of the Mysore Code of Criminal Procedure as well as the Indian Auxiliary Force Act of 1920 if the force should have any protection against legal liability; and

(e) No representation has been made to the Government by the Kolar Gold Field Mining Board for such an assistance.

The question was then dropped for the time being.

11) In 1930, when the District Magistrate Kolar wanted to make use of the Auxiliary Force stationed on the Field was instructed that it was not advisable to call up th Auxiliary Force, even as special constables, without t sanction of Government. At that time, the Hon'ble the

Hargo 2 1/2
Legis 15-9-29

NOTE—Contn. Sheet

Serial No.

Resident took objection even to the proposed use of this uni the local Magistrate for purposes of quelling a strike disturbance. The Hon'ble the Resident then said that no steps should be taken to enrol any members of the K.G.F. Battalion as special constables as that Battalion had definite duties under the internal Security Scheme and was under the orders of the Commander, Madras District, for that purpose. It is seen by this that though all along they were pressing for the use of this force in times of emergency, they took objection to the suggested use of this force when an emergency arose.

(2) A note on s question is found in File 68 of 30-31 placed below, and this explains the position clearly.

(3) When the same question arose in 1936, the Residency were informed that a Mobilisation Scheme had been drawn up by the Inspector General of Police in Mysore for dealing with emergent situations, such as strikes, local disturbances, etc, and that whenever there was any disturbance the Reserve Police Force in the State could be moved to the Kolar Gold Gold Field within a very short time and that there would not be any need for the use of the Auxiliary Force for quelling such a disturbance. In order to cope with such disturbances, the armed force in the Kolar Gold Field has been substantially augmented and arrangements

Serial No.

have been made to move a mobile column of the Mysore Infantry also swiftly to the area to aid the civil authorities. Under these circumstances, Government stated that there would be no occasion to employ the Auxiliary Force to control any serious disturbance of the peace as the increased police and military forces it could command, would be able to meet the situation. The Residency were satisfied with the reply of this Government and stated that in view of the arrangements which His Highness' Government have made for dealing with disturbances in future in the Kolar Gold Field area, they did not consider it necessary or advisable to reopen the difficult question of the employment of the Kolar Gold Field Battalion of the A.F.(I) in the case of ordinary civil disturbances. This was on 27th January 1937.

Pol Cog 'J'
PoC 36-35-24

14) The present letter of the Residency again asks for reconsideration of the same question which has been dealt with and decided so often and the same objections which held good in 1921 onwards, hold good even today. The Auxiliary Force Unit is guided by the Indian Auxiliary Force Act. It is not subject to the discipline of the Mysore Military Law or to the Mysore Courts. As has been said above, individual members of this Unit can no doubt be called in to aid the civil power either by anpointment as special constables under the Police Act or as ordinary citizens under Section 128 of the Criminal Procedure Code

Under Section 128 of the Criminal Procedure Code it is clearly stated that any male person in the vicinity of disturbance ~~is~~ may be required to aid the civi forces to disperse any unlawful assembly and such a ~~man~~ person should not be an officer or a soldier of the military forces of the Maharaja and acting as such A similar provision is found in the British Indian Criminal Procedure Code and it says that the men to be called for assistance should not have been enrolled under the Indian Volunteers' Act of 1869, and acting as such. This corresponds to the prese Auxiliary Forces Act. Unless we make use of these two provisions and take their assistance in their individual capacity, it is not possible to make use of the Unit as a whole without the Criminal Procedure Code in Mysore and the Auxiliary Force Act in British India being amended. Under Section 129 of our Code, the Magistrate of the highest ran may cause any unlawful assembly to be dispersed by military force. "Military force" here apparentl means Military Force of Mysore. This is made clear by Section 130, clause (1). Under Section 131, in case of grave emergency when the Commandin Officer of the Military Forces is unable to communicate with any Magistrate, he may himself disperse such an assembly by military force, and in

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Section 132, protection is given against prosecution for acts done under the above sections, No prosecution can take place except with the previous sanction of Government. It is thus seen that the provisions of Sections 127 to 132 do not enable this Government, as the law stands at present, to make use of the Auxiliary Force as a military force. There does not exist any justification for making use of the force as a unit. There are about 100 Reserve Police men and 9 officers and 208 regular policemen officers on the field and with the help of the telegraphic and telephonic connections between Bangalore and Kolar Gold Field, it is possible to muster within the course of about 2 to 3 hours all the reserve police-men of Bangalore and also move the mobile column of the Mysore Military Forces 16 men. As soon as there is an apprehended danger, the Magistrate is at liberty to call for the help of extra reserve policemen and the military force from Bangalore. In these days of swift locomotion, these extra men could reach the Gold Field area in cars and buses within the course of about 2 hours. The Residency thinks that if the telegraphic and telephone wires are cut, there may be no possibility of any communication between Bangalore and the Kolar Gold Field to enable the Magistrate to get the required assistance. The Police and the Magistracy in that area are expected to know, with the aid of the Intelligence Department, as to when possibilities of disturbance

heet.

might arise and they are expected to take all possible precautions before actual violence is committed by the labourers by cutting telephone and telegraph wires. Even if these wires are cut, still a messenger can reach Bangalore from Kolar Gold Field in about an hour and a half for requisitioning assistance and all the assistance in a car required can be sent to Kolar Gold Field within the course of another 2 to 3 hours. If this unit is allowed to be utilised for quelling disturbances till the regular help comes, it will only show that the Mysore Government have not got sufficient strength to safeguard the lives and property of people in that area. Moreover, the members of the A.F.(I) are also workers in the Kolar Gold Field and they know the labourers who are responsible for disturbances and it is possible that if they are allowed to quell the disturbances, they may catch hold of the ring-leaders and attack them first. It would be unsafe to entrust the lives of so many leaders to the members of this force.

(b) In view of the schemes adumbrated in 1936, there can be no doubt that aid can be given within a few hours after the disturbance starts. In 1930 when they themselves have objected to the use of the Auxiliary Force, how they could now suggest the use of such a force in aid of civil power is not clear. They have not got the necessary protection against prosecution under the Criminal

Serial No.

Procedure Code; nor do they form part of the Mysore Military Force. Even if we assume for purposes of argument that the British Government would agree to surrender the offenders committing excesses in quelling disturbances, to the Mysore Courts, still the Mysore Courts cannot exercise any jurisdiction in the absence of special provisions in the Criminal Procedure Code and so long as Art. 9 of the Treaty relating to plenary jurisdiction over European British Subjects exists. The objections that existed in 1921 exist even today with greater force as the armed force is considerably strengthened in that area now. The A.F.I.Act has got to be suitably amended to enable the force being used in Indian States. As it stands cannot be used for such a purpose now.

members of the A.F. 9 are European British Subjects

16) If for any reason it is considered necessary that such a Unit should be used for dispersing unlawful assemblies, then Sections 129 and 130 Cr.P.C will have to be amended. In Section 129, a note will have to be added as follows:-

"Military Force here includes a detachment of the A.F.(I)"

and in Section 130, we will have to add the words -

" or A.F.(I) referred to in Section 129" after the words "military force of the Maharaja

Chief Secy) P.T.O

10.5

Employment by the Mysore Govt
of the KGF Battalion of the A.F.(9)
in aid of the Civil Power

File No. of 193 General and Revenue Secretariat.

Serial No.

(1) The request of the Hon'ble the Resident for a discussion of this subject with the views of Government

Chief Secy

738

Serial No.

18) The objections to the proposal of the Residency to the employment by the Mysore Government of the Kolar Gold Fields A.F.(I) Battalion in aid of the civil power are the following:

(1) the calling in of outside help would reflect on the prestige of the State and the efficiency of its defence services;

(2) the use of that unit would raise complicate questions of jurisdiction over them in respect of their actions;

(3) conflict of jurisdiction may arise as to whether the unit will be amenable to the Army Act or to the ordinary criminal law of the State applicable to European British subjects;

(4) it would necessitate amendment of the Mysore Criminal Procedure Code as also the Indian Auxiliary Force Act of 1920 if the actions of the force are to be deemed legal and to have protection against legal liability;

19) The Government of India have themselves ruled in 1928 as follows:

"If the forces of the Paramount Power intervene for the restoration of order by the invitation of the Durbar to meet the obvious needs of the situation, the intervention is a clear indication that the Durbar are unable to control the situation themselves. In such a case, the administration of the State laws by the

~~by the State authorities will be subject to any restriction that the Paramount Power may see fit to impose.~~ "The same consequences The same ma consequences might be claimed to arise if the help of the A.F.(I) is invoked.

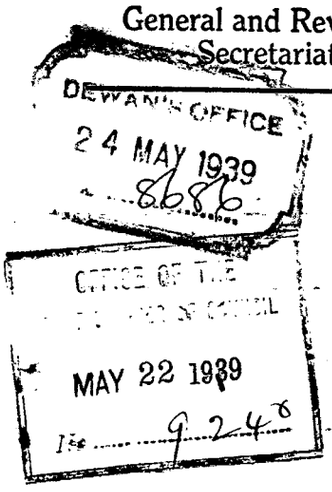
(5) If the local magistracy is invested with the discretion to call in this unit, it may happen that after they are called in, the Magistrate not having control over such unit may find himself powerless to prevent excesses in the use of military force/ Government may be conferred subsequently to condone such excesses;

(6) Once we agree to the employment of this unit on occasions, it may be considered by the Central Government that the forces kept in the K.G.F. partially are for the benefit of the Mining works and that it serves the purpose of emergency force which the Government of Mysore would otherwise have to keep. It may be argued as a consequence of this that the Mysore Govt. should bear a portion of the cost of this unit. Thus this proposal may operate as a thin end of the wedge in compelling the Mysore Government to share the cost.

(7) Though the unit as a collective force cannot be called in by the Magistrate, the several members thereof may be individually enrolled as special constables under our law and called in to assist.

Employment by the Mysore Govt of the Kly F Battalion of the A.F. (I) in aid of the Civil Power

General and Revenue Secretariat



File No. of 193 [App. F. III–2

Serial No.

In 1930 the Residency objected to enrol them as special constables without their consent. The only point of advantage in the proposal of the Residency is that in cases of extreme emergency when it may take time to get the assistance of the Mysore Forces, there will be a strong striking force available on the spot. But the disadvantages outweigh this advantage and the proposal does not appear to be acceptable.

Chief Sec.)

(Sir Member of Dewan)

C
18/5/39
21) MK
20.5.39
WG
22/5

22) The proposal in its present form does not appear to be open to some of the objections which we had to urge in the past when similar proposals were put forward for enabling the Mysore Magistrates to avail themselves of the services of this Battalion.

23) It is explicitly stated - firstly, that the Battalion could (if to be used) be used only until the arrival of reinforcements from outside, and secondly, that the Battalion would act under the orders of the Mysore Magistrate on the spot to the extent that troops called out in aid of the civil power would act under the orders of a British Indian Magistrate. A copy of the Military regulations on this subject may be obtained and put up.

NOTE—Contn. Sheet.

Employment by the Mysore Govt of the Kly Battalion of the A.F.(9) in aid of the Civil Power

File No. of 193

General and Revenue Secretariat.

Serial No.

(4) If we agree to the Battalion being used, whe required, on these conditions, we have naturally to extend to its members the same protection that Mysore troops enjoy when employed in aid of the civil power. The proposals asked for by the Residency in this respect may be worked out quickly.

(5) I agree. NM 24/5/39

(6) So long as the Govt. of India permit to include the battalion and the detachment of Mysore troops, and also undertake to bear their own exactly the same costs, we now agree

Serial No.

27) Draft reply to the Residency is put up. In order to empower the Mysore Magistrate to call out the A.F.(I) unit in the K.G.F. area to disperse unlawful assemblies in case of emergency, it is necessary to amend Section 130 of the Cr.P.C. It is stated in para 3 of the Residency letter that an amendment of the Mysore Cr.P.C. may not be necessary. But I do not think a Magistrate can have legal power to call in a military unit except under Section 130 of the Cr.P.C. Such an amendment had been suggested by the Residency themselves in their letter dated 22nd August 1930. Under sub-section (1) of section 130, the Magistrate is empowered to call in the military. Under sub-section (2) of that section, every military officer has to obey such requisition. Under Section 132, for an act done by any person in compliance with a requisition under section 130, protection against prosecution is given. Consequently the only amendment that is necessary is to add the words "or of any local unit of the Auxiliary Force (India) which he is duly authorised to employ" after the words "any soldier in the Military Forces of the Maharaja". No question of civil liability will arise since the act will have been done bona fide in compliance with a requisition under law.

28) In order to make the unit responsive to the call of the Mysore Magistrate, the Government of

The provisions of The Cr. Pro. Code in British India is similar.

The Military Regulations on the Subject are put up. They merely refer to Sections 127 & 132 of the Cr. Pro. Code.

Page 87 of the Manual of Military Law of India explains the position

NOTE—Contn. Sheet.

Employment by the Mysore Govt of the K.G.F Battalion of the A.F.(9) in and of the Civil Power

182

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General and Revenue Secretariat.

Serial No.

India will have to take action under section 19 of the Auxiliary Force Act to prescribe the K.G.F. area as the Military Area for performance of military service by the unit.

OFFICE OF THE FIRST MEMBER OF COUNCIL
JUL 7 1939
No. 230

CHIEF SECRETARY
7 JUL 19
GOVT. OF MYSORE

Employment by the Mysore Government of the K.G.F.Battalion of the A.F (I) in aid of the Civil Power.

6318

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.

31) As instructed I consulted the P. S. Swaramaraja He thinks that proposal of the Govt of India is reasonable and may be agreed to He suggested that it may also be made clear that the Auxiliary Force unit which may have been called out in an emergency by the local Govt should withdraw when required by the Govt after Mysore State reinforcements arrive & that suitable instructions should be issued to them in this respect

Cl
10/7

Dewan)
Thro' Chief Sec.)

32) MS 12.7.39

33) Draft. appd

34) Hon'ble M' approval the 14

MS
13-7-39

OFFICE OF THE SECOND MEMBER OF COUNCIL. 14 JULY 1939 No. 526

2nd Member)

35) Cl 14 BXR 14.7.39

Chief Secretary)

36) As the 2nd member has left for Simla, a D. O. N. may be put up. a clean draft may be placed in the file. MS 16.7.39 BXR 17.7

Law Secy) With Compts

Cl 17/7 BXR 17.7

WD 0544—GRB—30,000—2-9-38

0818 Employment by the Mission Court of the Kazi of Ballumun of the A 7 (1) in and for the Civil Power

File No. of 193

General and Revenue Secretariat

OFFICE OF THE FIRST MEMBER OF COUNCIL
JUL 21 1939
No. 718

DEWAN'S OFFICE
24 JULY 1939
No. 674

An additional para has been added at the end on page 3 to the draft letter to the Secretary to the Resident

OFFICE OF THE FIRST MEMBER OF COUNCIL
JUL 25 1939
No. 818

DEWAN'S OFFICE
[illegible] JULY 1939
No. 721

Magistrate The Magistrate would also be able to call out the unit in the event of any serious disturbance, e.g., a communal disturbance. even if the safety of the Mines and Mine officials on the Field was not directly affected.

In order to enable the Mysore Magistrate to call out the Unit to disperse an unlawful assembly, it is proposed to amend sub-section 1 of section 130 of the Mysore Criminal Procedure Code by adding the words "or any local unit of the A.F.(India which he is duly authorised to employ"after the words "any soldiers in the Military Forces of His Highness the Maharaja". If Section 130 is amended as above, legal protection will be available to the members of the Battalion acting in aid of the Civil Power in the Mysore State under Section 132 of the Mysore Criminal Procedure Code.

In order to make the unit responsive to the call of the Mysore Magistrate, it would be necessary under Section 19 of the A.F.(I) Act 1920 to prescribe the Kolar Gold Field area as a Military area in which the unit located there shall be required to perform military service and it is proposed to intimate the Hon'ble the Resident accordingly.

The Dewan and the Second Member of Council have also agreed to the proposals.

A draft demi-official letter to the Hon'ble the Resident embodying the above proposals is submitted for His Highness gracious approval.

MEMBER OF COUNCIL.

Bangalore,
26th July 1939.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Employment by the Mysore Government of the Kolar Gold Field Battalion of the A.F.(I) in aid of the Civil Power.

General and Revenue
Secretariat.

18839 H.H

SUBJECT :—

Employment by the Nyasa Government of the Kedar Eyrd Field Battalion of the A. F. (I) in aid of the Civil Power.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

Law .....Department.

60 76
31.7.39

FIRST MEMBER OF COUNCIL.

31/7/39

663
31-7-39

SECOND MEMBER OF COUNCIL.

Law Secretary with compliments

1.8.39

WD 0579—GPB—375—20-12-38 2·8

General and Revenue Secretariat. File No. 1854 / 1839 Loyment by the Mysore Govt of the Regt Battalion of the A. F. (I) in aid the Civil of 19 Power [App. F. III-2

Serial No.

For orders whether the approved D.O draft in the file may issue now

R.S. 2/8 Govt Govt this Br a Govt Cb

Draft may issue from this Branch -

BKR 2.8.39

Issued D.O. no. P. 670 of 3rd August-39 to the Secy to the Hon'ble the Resident

From

The Secy to the Hon'ble the Resident Confidential D.O. no 7.120-38 of 24th Aug.39 requesting that Sec. 131 of the Mysore Cri. Proc. Code should also be amended to include the A. F. (I) Limit.

The P. V. D has agreed to the suggestion contained in this office letter (Flag J). The only request is that Sec. 131 of the Mysore Cri Procedure Code should also be amended to include the A. F (I) Limit since the Section is a mere reproduction of the Cri Procedure Code and it is stated that it is only reasonable that this Govt should give to the Limit the discretion allowed in Br. India to British troops under Sec. 131. Submit for orders whether the amendment suggested in the P V D may be agreed to

Serial No.

The present suggestion of the Residency is that the K.G.F.Battalion of the A.F.(I) should be authorised to act in case of necessity under Section 131 Cr.P.Code. That Section provides that whenever the public security is manifestly endangered and when no Magistrate can be communicated with, any Commissioned Officer of the Military Force of His Highness the Maharaja may disperse the assembly.

It may be observed that the question of employment by the Mysore Government of the K.G.F.Battalion of the A.F.(I) has been under consideration since 1896, and all along this Government were not in favour of calling in outside help. But in the special circumstances urged in the Residency letter of 10th April 1939 and to the limited extent mentioned therein, this Government agreed to make use of the said Battalion viz., till the arrival of reinforcements from outside and on condition that the said Battalion would act under the orders of the Mysore Magistrate on the spot, and consequently Section 130 Cr.P.Code was also proposed to be suitably amended.

The Residency now goes further and says that the position of the A.F.(I) unit should be exactly the same as that of a similar Unit stationed in British India in relation to the ~~similar~~ civil power and urges therefore that the said Unit must also be empowered to act under Section 131 of Cr.P.Code. In the first place it may be observed

WD 0544—GPB—30,000—2-9-83

that this was not exactly the position that was placed before this Government in the Residency letter of 10th April 1939. It was then stated "we have however no de- desire that its position should be in any way different from that of a similar Unit stationed in British India in relation to the Civil Power; i.e. it could be called out by the Mysore Magistrate on the spot and would act under his orders to the extent that troops called out in aid of the Civil Power in British India Act under the orders of a British Indian Magistrate. The Magis- trate would of course be able to call the Unit out in the event of any serious disturbance e.g. a communal disturbance, even if the safety of the Mines and Mine officials etc., is not directly affected". It is clear from the above that in their letter of 10th April 1939, the Residency were contemplating only the circumstances in which the A.F.(I) Unit may be used by a Magistrate under Section 130 and it was only this aspect that this Government agreed to and proposed to make necessary amendments to Section 130.

In the next place, it may not be expedient to allow the A.F.(I) Unit to act under Section 131 Cr.P.Code. They are not under the control of Government and are not amenable to the jurisdiction of the State Courts just as the State Forces are. If on any occasion they should act in excess of the powers given under Section 131, the State Courts have no jurisdiction to determine whether

1259

Employment by the Mysore Govt of the Light Battalion of the A.F.(9) in aid of the Civil Power.

General and Revenue Secretariat | File No. of 193 | [App. F. III—2

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their acts were done in good faith. Moreover it may not be desirable to allow an outside agency like the A.F.(I) Unit to take action themselves under Section 131, without the guidance or the control of a local Magistrate.

For these reasons, it may not be expedient to accede to the suggestion of the Residency to authorise the A.F.(I) Unit to act under Section 131 Cr.P.Code.

SECY. LAW DEPT. 1572 5 SEP. 1939 GOVT OF MYSORE

BKR 5-9-39

Law Secy)

The point urged in the Residency letter is that since the A.F.(I) -(K.G.F.) is proposed to be placed in exactly the same position as a similar unit in British India in relation to the civil power and as they would respond to the call of the local magistrate under section 130, power under section 131 to disperse an unlawful assembly in case of emergency may be given to a commissioned officer of the unit This would no doubt place them in the same position in relation to the civil power as a similar unit in British India and would also give them the same powers under our Criminal Procedure Code as the Mysore Militar

This power to dispense an unlawful assembly under section 131 can be exercised only when the public security is manifestly endangered and when no Magistrate can be communicated with. As soon as it becomes possible to communicate with

the Magistrate, the commissioned officer has to obey the orders of the Magistrate. On the K.G.F. some one Magistrate will almost always be present, and I do not think an occasion can ordinarily arise when it is not possible to communicate with a Magistrate. It is a very remote contingency that rioters cut off communications between the Magistrate and the A.F.(I and attack property etc. If the disturbance suddenly becomes so grave, the A.F.(I) would be entitled to act at least in self defence and for protection of their property. Consequently even if power under section 131 Cr.P.Code is given, it would be more or less nominal and chances of its exercise are not likely.

It has been agreed to give them protection from prosecution under section 132 If they commit acts without good faith, they would be committing offences under the Mysore law, Only such of the offenders as are European British subjects under the Cr.P.Code will be triable by J.P.'s and the rest will be triable by our Courts. In the Cr.P.Code, the definition of European British subjects is restricted to Europeans purely and their children by legitimate descent. Under the Auxiliary Forces Act. enlistment is allowed not only to European British subjects. but also to British subjects of European discent in the male line (i.e. Legitimate descent is not the test)

Employment by the Mysore Government of the K.G.F Battalion of the A.F.(I) in aid of the Civil Power.
****

General and Revenue Secretariat | File No. | of 193 | [App. F. III-2

Serial No.

SEP 13 1939 2532

OFFICE 13 SEPT. 1939 2159.

In regard to these powers, the proposal would put them on the same footing as the Mysore Military. The only difference will be that they are subject to a different administrative control.

The principle has been agreed upon by the Government of India and our Government. The Government of India have acceded to the principle that the A.F.(I) could be called out by the K.G.F.Magistrate and would act under his orders in the same manner as a similar unit in relation to a British Indian Magistrate. We have agreed to use the A.F.(I) Unit in case of emergency. The present proposal is merely a detail and there appears to be no strong objection to it.

Chief Sec)
1st Member
Dewan

CC
13/9/39

MK 13.9.39 BKR 13.9.39
BKR 13.9

MM
15/9/39

MM
15-9-39

G.1879/39 BKR 18.9.39

CHIEF SECRETARY * 13 SEP 1939 * GOVT. OF MYSORE

Employment of the Mysore Govt of the
Klyf Battalion of the A.F (D)
in aid of the Civil Power

File No. 5f 193

General and Revenue Secretariat

Serial No.

Kind Reference is invited to the orders Expressing that the proposal of the Residency to amend Sec. 131 of the Mysore Cd. P. C. So as to include the A. F. (D) Limits may be agreed to Government to Sec 130 (1) (Enclosure to Flag J) has already been sent to the Residency Now a reply has to go with reference to the P.V.I., agreeing to the proposal and perhaps it would be better to send with the reply, the proposed amendment to the Mysore Cd Procedure Code viz. Sec 131 as to include the A.F (D) Limits Submitted for orders.

Please put up a draft amendment to Section 131 Cr.P.C (On the lines of amendment to Section 130) and also a draft to the Residency

BKR
4.10.39

A draft Bill amending sections 130 & 131 ~~etc~~ as well as section 4 asked in the linked file has been put up in that file, as also a Statement of General Principles.

a draft reply to the Residency is put up.

BNS
6.10.39

Employment by the Imperial Govt of the H.P. Battalion of the R.F.(V) Rifles and of the Civil Force

General and Revenue Secretariat. | File No. | of 19 | [App. F. III-2

Serial No.

OFFICE OF THE FIRST MEMBER OF COUNCIL
NOV 23 1939
No. 4948

may the matter be referred to the Residency Vakil?

Sd/-
15.10.39

BXR
15.10.39.

Immediate No. 594 dated 1.11.39 from the Residency

From

The Secretary to the Political Resident

Confidential D.O. No. 7.120-38. dated 18.11.39

Enquiring that the Bill may not be introduced in the L.C. till the approval of the Crown Representative is obtained to the arrangement

It is stated that the approval of the Crown Representative has been sought for the proposed arrangement and that the Bill need not be introduced in the L.C. till that approval obtained. It is for orders.

A verbal change is also suggested in the proposed amendment to Section 130, namely the change of "in" to "of". The suggestion may perhaps be adopted adopted.

Submitted for orders. The Bill need not get before the L.C. this time. For orders

Sd/-
21.11.39.
MM

BXR
22.11.39

Law Secy

The Bill may be placed on the agenda. If the Programme of Business is not altered so as to admit of the Bill being moved in the Council if the approval of the Crown Rep is not received in time, the Bill will not be moved in the Council

1st Member
Cr 23/11

Chief Secy
23/11/39.
MM

BXR
23.11.
BXR

Submitted for orders of the Board may be published under
Rule 8 of the Rules & Regulations. The Statement
General Principles will if approved be at-
tached to the Statement & objects and reasons.

Amendment to Code of Criminal Procedure

General and Revenue Secretariat. | File No. 4197 of 19 | [App. F. III-2

Serial No.

From

The Secretary to the Hon'ble the Resident

Confidential Do. no. 7 120/138 dated 22.12.29

states that the Govt Representation approves of the proposed amendment and suggesting certain amendment in the Bill

It is suggested that in the amendment to 130(1), for the words "or in any local unit of the Auxiliary force (India) which he is duly authorised to employ", the following may be substituted, or in the Kolar Gold Fields Battalion of the Auxiliary Force (India)

By the amendment the particular unit of the Auxiliary force gets defined and fixed secondly, there is no necessity to specify the authority who will authorise the District Magistrate to employ a particular unit

Reference is invited to the letter of the 18th November 1929 wherein it was suggested that the word "in" should be changed to "of". The word in the amendment proposed in the P.C.D. is "in". It is presumed that the change is intentional.

The Bill has ..... published in the Gazette of the 21st December 1929. If the amendment suggested by the Political department has to be incorporated, it will have to be by a Government Motion

Submitted for orders. Secretary 3/1/30

Done 2.1.30

amendment as suggested in the Residency letter may be accepted

SECY. LAW DEPT. MYS. GOVT OF MYSORE

NOTE—Contn. Sheet

the idea is to give an extreme unction
under the K.L.E. Detention Act (VA of 1) d.26
the Bulletin this amendment to
be put up as Government notice
18th Member
Dewan

DEWAN'S OFFICE
4 JAN. 1940
4746

OFFICE OF THE
FIRST MEMBER OF COUNCIL
JAN 3 1940
No. 6309

(a motion was moved by Hon'ble the
the Bill is a Govt one and does not app
a Committee of a select committee the motion
for passing the Bill at one sitting
than that the Bill published under rule 8 (a)
(b) of Business in Council

Hon'ble Minister
Seconded Law Member

that the rules of business and the
rule suspended and the Bill taken into
consideration at once without reference to a

4199
P

Amendment to Code of Criminal Procedure

General and Revenue Secretariat. | File No. | of 19 | [App. F. III-2

Serial No.

JAN 6 1940 6417

Select Committee

Move — 1st Member

Seconder — Law Secretary

3 Motion that the following amendment be made to Clause 3 of the Bill, namely:—

for the words "or of any local unit of the Auxiliary force (India) which he is duly authorised to employ the words "or in the Kolar Gold Fields Battalion of the Auxiliary force (India)" shall be substituted

Move — 1st Member

Seconder — Law Secretary

4. Motion that the Bill as amended be passed

Move — 1st Member

Second — Law Secretary

5/1/40. A draft reply to the Residency forwarding copies of the Bill is also submitted for orders.

5.1.40 Law Secretary. 3/5/1

SECY. LAW DEPT. 4771 5 JAN. 1940 GOVT. O. MYSORE

1st Member 6/7/1

3/6/1

NM 6/1/40

6/7/1

3/6/1

8.0

Issued Pol 949 dt 8.1.40 to the Secretary to the H with the Resident.

NOTE—Contn. Sheet

P Amendment to Code of Cr Procedure

File No. D.1147/40 of 19

General and Revenue Secretariat.

DEPARTMENT
31 JAN 1940
SECRETARIAT

Note re motion in connection with the Penal Code Amdt Bill

Noted & returned

BOUN 9-1-40 (Legislative Branch)

OFFICE OF THE SECRETARIAT
9 JAN 1940
REPRESENTATIVE ASS AND LEGISLATIVE COUN

From

The Hon'ble the Resident in Singapore

confidential D.O. No. 7. 120/1938 dated 19.1.1940

asking the Govt for the satisfactory solution of the question and requesting for three copies of the Act as passed by the L. Council

Bill was introduced in the Legislative Council on the 30th instant and passed at one sitting

OFFICE OF THE CLERK OF COUNCIL
JAN 30 1940
No 7298

Final Note by the First Member of Council.

Subject.—

Promulgation into law of the Code of Criminal Procedure (Amendment) Bill.

On the 29th July 1939 the gracious sanction of His Highnes was accorded to introduce the Bill further to amend the Code of Criminal Procedure.

The general principles of such a Bill, which also include an amendment of one of the definitions in the Code, were placed before the Representative Assembly at its Dasara Session of 1939 and were accepted by that body.

The Bill was introduced in the Legislative Council on the 23rd January 1940 and passed the same day.

I solicit the gracious sanction of His Highness to promul gate the Bill into law.

MEMBER OF COUNCIL.

Bangalore,
30th January 1940.

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* the promulgation into law of the Code of Criminal Procedure (Amendment) Bill *for His Highness' gracious approval.*

Mirza M. Ismail

Bangalore,
31st January 194(

Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Code of Criminal Procedure (Amendment) Bill.

4787/D Amendment of Criminal Procedure Code

General and Revenue Secretariat. | File No. 1147 Le/V988 of 19 | [App. F. III-2

Serial No.

From

The Secretary to the Hon'ble the Resident

R.? 346-39/Just dated 26.1.40

inquiring how the proposal to amend the definition of "European British Subject" stands.

The main file has been submitted to His Highness.

On the letter of the Residency referred to in the P.U.D. Certain suggestions of the Political Dept. regarding the definition were conveyed to this Govt. They have all been accepted and incorporated in the Bill that was recently passed in the Leg.

A draft reply on the above lines is put up for orders.

30.1.40.

Dy Secy (Legislative) 30/1

30/1

Issued vide 1056 dated 31.1.40 to the Secretary to the Hon'ble the Resident.

~~The file~~

This file was found in an old almirah. It is sent to the Legislative section to which it belongs.

Asst Secy (Legislative) 29/1

NOTE—Contd. on sheet

OFFICE OF THE SECRETARY
23 FEB. 1944
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

Confidential
D.O.No.F.120/1938

Bangalore 10th April 1939

POLITICAL SECRETARIAT
PP
11. APR. 1939

Employment by the Mysore Government of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil Power.

I have recently been in correspondence with the Crown Representative over a question which has been discussed between this Residency and the Government of Mysore on and off for many years; that is, the employment of the A.F.(I) Battalion on the Kolar Gold Fields in case of an emergency on the Field. You will remember that at the beginning of 1936, after discussion with Colonel Plowden, the Government of Mysore made certain special arrangements for internal security on the Field, as follows

(1) the strengthening of the Armed Police force in the Gold Fields Area

(2) a special Police Mobilization scheme to enable police to be brought to the spot as quickly as possible

(3) formation of a mobile column of State Forces to be moved in an emergency from Bangalore.

The question was then dropped under the orders of the Crown Representative and with the approval of the District Commander. It was discovered a short time ago however that District Headquarters were under the impression that in an emergency which necessitated the protection of British lives and property, the A.F.(I) Battalion could be used on the Field under the orders of the Battalion Commander without reference either to the Political Authorities or to District Headquarters. This position is of

course incorrect. The Battalion is part of the Army in India and can only be used in the Mysore State upon the orders of the Political Authorities in accordance with the conditions governing the use of British Forces in an Indian State. The consent of District Headquarters to dropping this question was given under this misapprehension and after the circumstances were explained to them, they have felt it essential to raise the question again. I want therefore to discuss the matter afresh with you and I feel sure that we shall be able to find a final solution which will settle this vexed question once and for all in a manner which is suitable both to the necessities of the situation and the position of the Government of Mysore.

2. You will of course agree with me that the situation in industrial areas in India has materially altered in the last few years and is rapidly altering now. Most Provincial Governments are experiencing serious labour trouble and such trouble has come as near as Madras City and Madura. I am glad to see that as yet there have been no signs of real trouble in Mysore, but we must envisage the possibility of agitators from outside attempting to stir up industrial trouble in the State during the next few years. An obvious area for such agitation is the Gold Fields and of course it has not been free from trouble in the past. I need not emphasise that the credit of the Government of Mysore would be very seriously affected should any disturbances on the Kolar Gold Fields result in the loss of lives property and in such circumstances subsequent information that the local armed force on the Field could not be used for political reasons would be liable to cause a grave scandal.

I understand that there are 21,000 male Indian employees on the Mines and that the population of the area is between 50 and 80 thousand; that the ordinary police on the Field are just slightly over 200 and the Reserve Police slightly over 100. The arrangements made by the Government of Mysore for sending police reinforcements and a mobile column of troops are as good as can be devised, but we consider that a situation may easily arise in which much damage could be done before police and military reinforcements can reach the Field and in which the existing police forces stationed there would not be able to cope with the emergency. Disturbances in such an area are apt to arise very quickly, generally being started by some chance incident. If telephone and telegraph wires are cut and if roads are blocked, as might be possible, a considerable time must elapse before the arrival of reinforcements; and even without such impediments it might be at least six hours before effective reinforcements could be deployed on the spot. The District Commander and I consider it essential that it should be possible for this Battalion to be used in aid of the civil power in such circumstances until the arrival of reinforcements from outside. We hope that such a situation will never arise, but we consider it essential to guard against the possibility of its occurrence by making possible the use of this Battalion. We have however no desire that its position should be in any way different from that of a similar unit stationed in British India in relation to the civil power; i.e. it could be called out by the Mysore Magistrate on the spot and would act under his orders to the extent that troops called out in aid of the civil power in British India act under the orders of a British

Indian Magistrate. The Magistrate would of course be able to call the unit out in the event of any serious disturbance e.g. a communal disturbance, even if the safety of the mines and Mine Officials etc., is not directly affected. The question was referred to the Crown Representative and to the Government of India and they are strongly of the opinion that it is essential that the Battalion should be able to be used as a unit in the interests of internal security on the Kolar Gold Field in the event of a serious emergency up to the time when the situation can be controlled by Mysore State Troops.

3. The question then arises what action is necessary to enable this position to be regularized. Objections have been raised in the past by the Government of Mysore to the amendment of their Criminal Procedure Code for this purpose. It may be found on further examination that such an amendment will not be necessary The request which I now make on the authority of the Crown Representative is that the Government of Mysore should agree to the use of the Battalion in these circumstances and that they should make proposals to me how the members of the Battalion can be legally protected to the extent that Mysore State troops are protected when acting in aid of the civil power in the Mysore State. I presume that the objections raised hitherto to this proposal are based on the idea that it is not conducive to the State's prestige to admit that a situation might arise which their forces cannot control. I do not really think that anyone can seriously regard it as being derogatory to the Government of Mysore to use this Battalion in the circumstances envisaged and I consider it to be far more in the real interests of the State that they should take such a comparatively simple method

or making sure of avoiding a disaster which would do much to bring into disrepute the name which the Government of Mysore now has for good and efficient government.

4. I will be very glad to discuss this matter with you at any time and I would ask you to give this proposal serious consideration even if your first reaction to it is that the danger apprehended is not likely to materialise. We would have been very unwilling to raise this question again if we had not come to the conclusion after much consideration that the proposal is really necessary

Yours,

Amin-ul-Mulk Sir Mirza M. Ismail, KCIE.,OBE.,
Dewan of Mysore, Bangalore.

14th April 1939.

CONFIDENTIAL

Subject.- Employment by the Mysore Government of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil Power.

Dear Sir

I am desired to acknowledge the receipt of Confidential D.O.No.F.120/1938 dated 10th April 1939 on the above subject from the Hon'ble the Resident to the Dewan.

Yours sincerely.

H.Trevelyan, Esq., I.C.S.,
Secretary to the Hon'ble the Resident
in Mysore, Bangalore.

18/P

CONFIDENTIAL.
D.O.No.F.120/1938.

THE RESIDENCY MYSORE

GEN. & REV. SECRETARIAT PROTECTION BRANCH
3. JUL. 1939

Bangalore,
29th June 1939.

Employment by the Mysore Government of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil power.

- - -

My dear Kesavaiengar.

Please refer to the correspondence ending with the General and Revenue Secretariat demi-official letter No. P.5509, dated the 15th April 1939. The Resident will be grateful for an early reply to his demi-official letter to the Dewan, No.F.120/38, dated the 10th April 1939.

Yours sincerely

R. Rangan

Rajasevaprasakta
Mr.B.T.Kesavaiengar,B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

D.O. no. P 670/Secret

3rd August 1939.

Confidential.

Subject.- Employment by the Mysore Government of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil Power.

Dear Sir,

I am desired to refer to Confidential D.O.letter No.F. 120/1938, dated 10th April 1939, from the Hon'ble the Resident to the Dewan on the above subject, and to state that the Government of Mysore have no objection to the use of the A.F.(I) Battalion as a unit in aid of the civil power, in the interests of internal security on the Kolar Gold Fields in the event of a serious emergency, up to the time when the situation can be controlled by the State Troops. It is noted that its position would not be in any way different from that of a similar unit stationed in British India in relation to the civil power and that it could be called out by the Mysore Magistrate on the spot and would act under his orders to the extent that troops called out in aid of the civil power in British India act under the orders of a British Indian Magistrate. The Magistrate would also be able to call out the unit in the event of any serious disturbance e.g., a communal disturbance, even if the safety of the mines and mine officials etc., was not directly affected

In order to enable the Mysore Magistrate to call out the unit to disperse an unlawful assembly under section 128, sub-section (1) of Section 130 of the Mysore Criminal Procedure Code will have to be amended by adding the words "or any local unit of the Auxiliary Force (India) which he is duly authorised to employ" after the words "any soldiers in the Military Forces of the Maharaja". Section 132 of the Mysore Criminal Procedure Code provides for protection to any person doing any act in good faith in compliance with a requisition

under Section 130. This legal protection will be available to the members of the Battalion acting in aid of the civil power in the Mysore State. For easy reference I am enclosing a draft of Section 130 as proposed to be amended and a copy of Section 132.

Since any acts connected with the dispersal of the assembly would be done by the members of the unit in compliance with a requisition of a Magistrate in accordance with law, they would not be tortious and would not involve liability in civil law.

In order to make the unit responsive to the call of the Mysore Magistrate, it would be necessary, under Section 19(1) the Indian Auxiliary Force Act, 1920, to prescribe the Kolar Gold Field Area as the military area in which the unit located there shall be required to perform military service

It is implicit in the proposed arrangements that the A.F.(I) unit will take action only on the direction of the local Magistrate. and that they will desist from further action if the Magistrate directs them to withdraw on the arrival of reinforcements. It is presumed Standing instructions will be issued to this effect to the authorities of the unit

Yours sincerely,

H.Trevelyan, Esq., I.C.S.,
Secretary to the Hon'ble the Resident
in Mysore Bangalore

OFFICE OF THE
FIRST MEMBER OF COUNCIL
AUG 25 1939
No 1845

1254/

THE RESIDENCY
MYSORE

CONFIDENTIAL
D.O.No.F.120-38

1520

Bangalore,
24th August 1939.

POL. & REV. SECRETARIAT.
26 AUG. 1939
BRANCH.

Employment by the Mysore Government of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil Power.

Dear Suvramania Iyer,

I am desired to refer to your demi-official letter No. P. 670 dated the 3rd August 1939.

2. The Resident is most grateful to the Government of Mysore for agreeing to the proposal. In one respect, however he will be glad of an amendment of the Government of Mysore's suggestions. You write that it is implicit in the proposed arrangements that the A.F.(I) unit will take action only on the direction of the local Magistrate. The words used in Colonel Gordon's demi-official letter of the 10th April were that its position should be exactly the same as that of a similar unit stationed in British India in relation to the civil power. This you will agree is a very reasonable position. It therefore follows that the unit must be authorised to act in case of necessity under Section 131 of the Criminal Procedure Code which is reproduced in the Mysore Code. You will recognise that if the Crown Representative agrees to give the Mysore Magistrate the same jurisdiction in regard to this unit as a Magistrate in British India has over British troops, it is only reasonable that the Government of Mysore should give to the unit the discretion allowed in British India to British troops under this Section. It is of course no more probable that this discretion will be abused in the Kolar Gold Fields than it is likely to be abused in British India. I am therefore to request that Section 131 of the Mysore Criminal Procedure Code should also be amended to include the A.F.(I) Unit. The Kolar Gold Fields is already included as a military area under the A.F.(I) Act and no amendment to that Act appears necessary. The Resident will be grateful for a very early reply, as the matter has been pending

for a considerable time.

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Law Department.

CONFIDENTIAL.
D.O.No.F.120-1938.

THE RESIDENCY MYSORE

2443/P

Bangalore,
9th October 1939.

INTERNAL SECURITY - K.G.F.Bn., A.F.(I)

My dear Kesavaiengar

Please refer to my demi-official letter No. F.120-1938, dated the 24th August 1939. The Resident will be glad ~~for~~ of a very early reply.

In the meanwhile, the Officer Commanding, Kolar Gold Fields Bn. would very much like to hold an exercise in aid of the Civil Power on the 22nd October on the British Indian basis, in view of the arrangements which are now proposed. He proposes to ask for the co-operation of the State Police in this exercise as is often done in British India. He will be sending me a note on the scope of the exercise and when you receive it, the Resident will be most grateful if you will let me know whether the Government of Mysore have any objection to it.

Yours sincerely,

Rajasevaprasakta
Mr.B.T.Kesavaiengar,B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

CONFIDENTIAL.
D.O.No.F.120-1938.

THE RESIDENCY BANGALORE

Bangalore,
13th October 1939.

INTERNAL SECURITY - KOLAR GOLD FIELDS BATTALION, AUXILIARY FORCE (INDIA).

OFFICE OF THE FIRST MEMBER OF COUNCIL
OCT 16 1939
No 3661

My dear Mr. Kesavaiengar,

Please refer to my demi-official letter No.F.120-1988, dated the 9th October 1939.

I understand that the exercise in aid of the civil power which the Officer Commanding, Kolar Gold Fields Battalion wished to hold on the 22nd October has been cancelled.

Yours sincerely,

R. Trevelyan

for Mr. Trevelyan.

The reason for the receipt of this letter is not mentioned. In view of the cancellation of the exercise no action is called for

15.10.39

15-10-39

Law Secy

Chief Secy

1st Member

16/10/39

Rajasevaprasakta
Mr. B. T. Kesavaiengar, B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

CONFIDENTIAL.

Pol 594/41

To

The Secretary to the Resident in Mysore

Subject.- Employment by the Mysore Govern ment of the Kolar Gold Fields Battalion of the A.F.(I) in aid of the Civil Power.

Dear Sir,

I am desired to refer to your Confidential D.O.letter No.F.120-38 dated 24th August 1939 on the above subject and to state that the Government of Mysore have no objection to amend section 131 c the Mysore Code of Criminal Procedure to include t A.F.(I) unit. A copy of a draft Bill amending sect 130 and 131 of the Code as well as section 4 of th Code about which I am writing separately to you, i enclosed herewith for reference. It is proposed to place the General Principles of the Bill before the R.A during its ensuing Dasara session and introduce the Bill in the L.C. in January next. One Council.

It is understood that the power to disperse an unlawful assembly under section 131 will be exercised only when the Public Security is manife ly endangered and when no Magistrate can be comm nicated with. As soon as it becomes possible to communicate with a Magistrate, the commissioned officer has to take and obey the orders of the Magistrate. It is hoped that standing instruct will be issued to the authorities of the unit t this effect.

Yours sincerely,

Confidential. Pol594Ea.

1st November 1939.

EMPLOYMENT BY THE MYSORE GOVERNMENT OF THE KOLAR GOLD FIELDS BATTALION OF THE A.F.(I) IN AID OF THE CIVIL POWER.

I am desired to refer to your Confidential D.O. letter No.F.120-38 dated 24th August 1939 on the above subject and to state that the Government of Mysore have no objection to amend section 131 of the Mysore Code of Criminal Procedure to include the A.F.(I) unit. A copy of a draft Bill amending sections 130 and 131 of the Code as well as section 4 about which I am writing separately to you, is enclosed herewith for reference. The General Principles of the Bill were placed before the Representative Assembly during its recent Dasara Session and were accepted by that body. It is proposed to introduce the Bill in the Legislative Council in due course.

H.Trevelyan, Esq., I.C.S.,
Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

BILL FURTHER TO AMEND THE CODE OF CRIMINAL PROCEDURE 1904.

Whereas it is expedient further to amend the Code of Criminal Procedure, 1904; It is hereby enacted as follows

1. This Act may be called the Code of Criminal Procedure (amendment) Act, 19

2. For the definition of "European British subject" in section 4(1)(i) of the Code of Criminal Procedure, 1904, (hereinafter referred to as the Code) the following shall be substituted; namely -

"(i) "European British subject" means -

(a) any subject of His Majesty the King Emperor of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(b) any subject of His Majesty the King Emperor who is the child or grandchild of any such person by legitimate descent:

EXPLANATION - " Colony" in this definition shall mean any part of His Majesty the King Emperor's dominions exclusive of the British Islands and of British India, and where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony.

3. In sub-section (1) of section 130 of the Code, after the words, "the Maharaja" the following words shall be inserted, namely -

" or ~~in~~ of any local unit of the Auxiliary Force (India) which he is duly authorised to employ,".

4. In section 131 of the Code, after the words "the Maharaja" the following words shall be inserted, namely

"or of any local unit of the Auxiliary Force (India) referred to in sub-section (1) of section 130".

STATEMENT OF GENERAL PRINCIPLES OF THE BILL

FURTHER TO AMEND THE CODE OF CRIMINAL PROCEDURE, 1904.

The definition of "European British Subject" in section 4 of the Code of Criminal Procedure, 1904, is in some respects wider and in some respects narrower than the corresponding definition in the British Indian Code. In British India, prior to 1923 the definition was the same as obtains here now and in that year as a result of the recommendations of the Racial Distinctions Committee presided over by Sir Tej Bahadur Sapru, an amending Act was passed known as the Criminal Law Amendment Act XII of 1923. One of the amendments made by that Act was a change in the definition of the term "European British Subject" in the Criminal Procedure Code. In order to bring the law here into conformity with that in British India, it is proposed to amend the Code of Criminal Procedure by adopting the definition found in the British Indian Criminal Procedure Code as amended by Act XII of 1923.

Under Section 130 of the Code, a Mysore Magistrate can call out to disperse unlawful assemblies, only the Military Forces of His Highness the Maharaja. In the Kolar Gold Field area there is located a unit of the Auxiliary Force (India). It is considered desirable that the Magistrate there should be enabled to call out that unit in a case of emergency until Mysore Troops arrive on the spot. For this purpose, sections 130 and 131 of the Code of Criminal Procedure are proposed to be amended by placing the A.F.(I). unit on the same footing as the Mysore Military Forces in respect of these sections.

CONFIDENTIAL.
D.O.No.F.120-38.

Bangalore,
18th November 1939.

Employment by the Government of
Mysore of the Kolar Gold Fields Bn.
of the A.F.(I) in aid of the Civil power.

- - -

Please refer to your demi-official letter No. Pol. 594, dated the 1st November 1939.

The Resident is most grateful to the Government of Mysore for their action in this matter. He suggests that in the amendment of sub-section (1) of Section 130, the word "in" should appropriately be "of". The Resident has forwarded copies of the correspondence to the Political Department and hopes to obtain the approval of His Excellency the Crown Representative to this arrangement before the next Council Session. He will be grateful if this legislation is not introduced in the Council before that approval has been received.

Yours sincerely,

H. Fulton

C.Subrahmanya Aiyar, Esq., B.A.,B.L.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Law Department,
Bangalore.

4199 839

Confidential
D.O.No-F.120/1938

Bangalore, 22nd December 1939.

2 27/1-5

Employment by the Government of Mysore of the Kolar Gold Fields Battalion of the Auxiliary Force (India) in aid of Civil Power.

Please refer to the correspondence ending with my demi-official letter No.F.120-38 dated the 18th November 1939.

2. His Excellency the Crown Representative in consultation with the Government of India approves of the arrangement and the proposed amendment of the Mysore Criminal Procedure Code. The Political Department request that in the proposed amendment to sub-section (1) of Section 130 of the Mysore Code the words "or in the Kolar Gold Fields Battalion of the Auxiliary Force (India)" should be substituted for the words "or in any local unit of the Auxiliary Force (India) which he is duly authorised to employ". They note that in the amendment as at present phrased the authority who will authorise the District Magistrate to employ a particular unit of the Auxiliary Force (India) is not specified.

3. Will you please let me know whether the Government of Mysore agree and send me as early as possible a copy of the Bill which they propose to introduce at the next session of the Legislative Council

Yours Sincerely

H Rumbold

Subrahmanya Aiyar Esq., B.A.,B.L.,
Secretary to the Government of Mysore.
Law Department, Bangalore.

DRAFT. Pol 349 Eds 3 d 8.1.40

CONFIDENTIAL.

Employment by the Government of Mysore of the Kolar Gold Fields Battalion of the Auxiliary Force (India) in aid of Civil Power.

I am desired to acknowledge the receipt of your Confidential Demi-official letter No.F.120/1939 dated the 22nd December 1939 on the above subject and to send herewith three copies of the Bill amending the Mysore Code of Criminal Procedure as desired therein.

I am also to state that the Government of Mysore have no objection to change the wording of the proposed amendment of section 130(i) in the manner suggested. As the Bill has already been published under the Rules of Business of the Mysore Legislative Council, the amendment will be brought up before the Council in the form of a Government motion.

H.Trevlyan Esq:,I.C.S.,
Secretary to the Hon'ble the Resident in Myso:
Bangalore.

DRAFT

CONFIDENTIAL

Employment by the Government of Mysore of the Kolar Gold Fields Battalion of the Auxiliary Force (India) in aid of Civil Power.

I am desired to acknowledge the receipt of your Confidential Demi-official letter No.F.120/1939 dated the 22nd December 1939 on the above subject and to send herewith three copies of the Bill amending the Mysore Code of Criminal Procedure as desired therein

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H.Trevlyan Esq:,I.C.S.,
Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

Pol 349 Enl 2

8th January 1940.

Confidential.

Employment by the Government of Mysore of the Kolar Gold Fields Battalion of the Auxiliary Force (India) in aid of Civil Power.

I am desired to acknowledge the receipt of your Confidential Demi-official letter No. F.120/1939 dated the 22nd December 1939 on the above subject and to send herewith three copies of the Bill amending the Mysore Code of Criminal Procedure as desired therein.

I am also to state that the Government of Mysore have no objection to change the wording of the proposed amendment of section 130(i) in the manner suggested. As the Bill has already been published under the Rules of Business of the Mysore Legislative Council, the amendment will be brought up before the Council in the form of a Government motion.

H.Trevelyan, Esq., I.C.S.,
Secretary to the Hon'ble the Resident in Mysore, Bangalore.

4780 P 39

Confidential

D.O.No.F.120/1938

THE RESIDENT MYSORE

REV. SECRET. THE RESIDENCY, BANGALORE. 22 JAN 1940

19th January 1940.

S.O.E. Rev

Employment by the Government of Mysore of the K.G.F. Battalion of the A.F.(I) in aid of the civil power.

Mysore Sir Mirza

Please refer to Mr. Subrahmanya Aiyar's letter to Mr. Trevelyan No.Pol.949, dated the 8th January 1940.

2. I am writing to express my thanks to you for your help in the satisfactory settlement of this question.

3. I will be grateful if the Government of Mysore will send the Residency three copies of the amending Act as passed by the Legislative Council.

Yours sincerely

T Gavin.

w Leg) MD 19-1-40

Amin-ul-Mulk Sir Mirza M Ismail, KCIE.,OBE.,
Dewan of Mysore, Bangalore.

G 19/1

BKR 22.1.40

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

SECY. LAW DEPT. 27 JAN. 1940 GOVT OF MYSORE

FROM

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE

SECL. REY. SECRETARIAT 29 JAN 1940 PROTECTORATE

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department, Bangalore.

Dated Bangalore, the 26th January *1940.*

Amendment of the definition of the term "European British Subject" in the Mysore Criminal Procedure Code - Your letter No. Pol.595, dated the 1st November 1939.

SIR,

I am directed to refer to my letter R.Dis.No.F.346-39 Judl., dated the 13th December 1939. Will you please let me know how the matter stands ?

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary to the Resident.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 30th January 1940.
31st

No. Lol 105-6

From

The ~~General~~ Secretary to the Government of His Highness the Maharaja of Mysore.
Law Department.

To

The Secretary to the Hon'ble the Resident in Mysore.

Sir,

Subject.- Amendment of the definition of 'European British Subject' in the Criminal Procedure Code.

I am directed to acknowledge your letter No.R.F. 346-39/Judl dated the 26th instant on the above subject and to state that the suggestions of the Political Departments conveyed in your letter R.Dis No.F.346-39/Jud dated the 13th December 1939 have been incorporated in the Bill further to amend the Code of Criminal Procedure which was passed by the Legislative Council last week. A copy of the Bill is enclosed for reference.

I have the honor to be,

Sir,

Your most obedient servant,

for Secretary to Government
Law Department.

G. R. S. VI.—s-III/14]

DRAFT.

SUBJECT.....

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.....

Section. Legis
File No. 47-39
Serial No. 1

Diary No. of letter replied to.....

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. P5678

GENERAL AND REVENUE SECRETARIAT,

, *the*.....*191*

Ordered that the accompanying Rules framed under the Code of Procedure, 1904

which received the assent of His Highness the Maharaja, on the 18th day of February 1940, be published as ~~Regulation~~ Act No. XI of 1940, in the *Mysore Gazette* for general information.

Date of issue.....4/2/40.

Signed by.....Mr. C. S. A.

Secretary to Government.
In Law dept

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare copies as per Standing Orders

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

[redacted] P 5678 Legs. 47-39-1 dt 14.2.40.

Ordered that the accompanying Act further to Amend the Code of Criminal Procedure, 1904, which received the assent of His Highness the Maharaja of Mysore, on the 1st day of February 1940 be published as Act XI of 1940, in the Mysore Gazette for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies as per standing orders. Proofs should be sent to this office for approval before publication.

NOTIFICATION.

No. P. 5678—*Legis.* 47-39-1, *dated Bangalore, the* 14*th February* 1940.

Ordered that the accompanying Act further to amend the Code of Criminal Procedure, 1904, which received the assent of His Highness the Maharaja of Mysore, on the 1st day of February 1940 be published as Act XI of 1940, in the *Mysore Gazette* for general information.

C. SUBRAHMANYA AIYAR,
Secretary to Government,
Law Department.

ACT XI OF 1940.

The Code of Criminal Procedure (amendment) Act, 1940.

(*Received the assent of His Highness the Maharaja on the* 1*st day of February* 1940.)

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1904; It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (amendment) Act, 1940. Short title.

2. For the definition of "European British Subject" in section 4 (1) (l) of the Code of Criminal Procedure, 1904 (hereinafter referred to as the Code), the following shall be substituted, namely— Amendment of section 4, Act II of 1940.

"(l) "European British Subject" means—

(*a*) any subject of His Majesty the King-Emperor of European descent in the male line born, naturalised or domiciled in any part of His Majesty the King-Emperor's Dominions exclusive of British India and of British Burma, or

(*b*) any subject of His Majesty the King-Emperor who is the child or grandchild of any such person by legitimate descent:"

Amendment of section 130, Act II of 1904

3. In sub-section (1) of section 130 of the Code after the words "the Maharaja" the following words shall be inserted, namely—

"or in the Kolar Gold Fields Battalion of the Auxiliary Force (India)."

Amendment of section 131, Act II of 1904

4. In section 131 of the Code, after the words "the Maharaja" the following words shall be inserted, namely—

"or of any local unit of the Auxiliary Force (India) referred to in sub-section (1) of section 130."

MIRZA M. ISMAIL
Dewan.